

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5209 OF 2005

Shri Balasaheb S.Newale .. Petitioner

Vs.

Jaywantrao Yashvantrao Dhamale
and Ors. .. Respondents

Mr.P.S.Dani for the petitioner

Mr.S.S.Patwardhan for the respondent no.1

CORAM : S.U.KAMDAR, J
DATED : 24TH NOVEMBER, 2005

P.C.:

1. The learned court in the impugned order has passed a discretionary order of restoring election dispute which has been dismissed for default of non-appearance. The ground is that son of the Advocate was not well. Medical Certificate has been produced. I am of the opinion that in such a discretionary order this court ought not to interfere in writ jurisdiction under Article 227 of the Constitution of India.

2. The learned counsel for the petitioner has

fairly conceded that in so far as power of additional Commissioner to restore the election dispute under section 144 of the Maharashtra Co-op.Societies Act, 1960 is concerned, the said issue is no longer a res-integra in view of the judgment of the Division Bench in the case of Krishnarao Anandrao Dhayagude and others Vs. Khandala Taluka Shetkari Sahakari Kharedi Vikri Sangh Ltd., Lonand and others reported in AIR 1982 BOMBAY 410. In that view of the matter, there is no substance in the present petition. Petition is dismissed accordingly. No order as to costs.

3. However, in the light of the fact that dispute is pertaining to election, it is necessary that the hearing must be expeditiously carried out by the Commissioner. Commissioner to hear the election dispute expeditiously and complete the same on or before 31.3.06.